

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

VICTOR WILSON,

Petitioner,

Case Number: 15-11383
Honorable Victoria A. Roberts

v.

KENNETH MCKEE,

Respondent.

_____ /

**Order Denying Petition for Appointment of
Federal Defender Without Prejudice (ECF No. 44)**

Victor Wilson filed a *pro se* habeas corpus petition under 28 U.S.C. § 2254, challenging his convictions for two counts of second-degree criminal sexual conduct, Mich. Comp. Laws § 750.520c(1)(a). On March 25, 2019, the Court granted Wilson's motion to stay these proceedings while he exhausted his claims in state court and administratively closed the case. (ECF No. 39.) On January 27, 2022, the Court granted Wilson's motion to continue the stay while he filed a second motion for collateral relief in state court based on newly-discovered evidence. (ECF No. 43.) Now before the Court is Wilson's Petition for Appointment of Federal Defender. (ECF No. 44.)

Wilson states that he needs the assistance of counsel to investigate and develop claims related to newly-discovered evidence and to obtain a state court order requiring the State to release exculpatory material. A prisoner has no absolute right to counsel in a federal habeas corpus proceeding. *Post v. Bradshaw*, 422 F.3d 419, 425 (6th Cir. 2005).

The appointment of counsel is within the Court's discretion. *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987).

Wilson has not moved to reopen this case and it appears that he is still in the process of exhausting his state-court remedies. He does not assert that the state court lacks discretion to appoint him counsel or that qualified counsel is unavailable. He also does not show that he has requested appointment of counsel in state court and that his request has been denied. Wilson has not shown it is necessary or appropriate for the Court to authorize the use of federal resources to litigate his state court collateral action.

The Court DENIES the Petition for Appointment of Federal Defender (ECF No. 44) WITHOUT PREJUDICE. If and when the stay is lifted and the habeas proceeding is reopened, Wilson may renew his request for appointment of counsel.

s/ Victoria A. Roberts
VICTORIA A. ROBERTS
UNITED STATES DISTRICT JUDGE

Dated: 1/31/2023